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PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 33012/326/101

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number 10/027,178	Filed 12/21/2001
on April 12, 2006 Signature _(signed)_	First Named Inventor Thomas N. Turba et al.	
Typed or printed name Carolyn I. Erickson	Art Unit 2162	Examiner A. Ly

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
 Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ **XX** attorney or agent of record.
Registration number _25,645_

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

(signature)
Signature

Wayne A. Sivertson
Typed or printed name

612-331-1464
Telephone number

April 12, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ **XX** *Total of __3__ forms are submitted. Transmittal; Notice of Appeal; Pre-Appeal Brief Request For Review

P A T E N T

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	)	
	)	
Thomas N. Turba et al.	)	Examiner A. Ly
	)	
Serial No. 10/027,178	)	Group Art Unit 2162
	)	
Filing Date: 12/21/01	)	
	)	Docket No. 33012/326/101
	)	
For: STEP TO SAVE TABLE FOR	)	
LATER USE	)	**PRE-APPEAL REQUEST FOR**
	)	**REVIEW - REASONS FOR**
		REQUEST

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

The pending official action has been made prematurely final by the Examiner. Claims 11-15 and 21-25 had been previously rejected as anticipated by U.S. Patent No. 6,185,567, issued to Ratnaraj et al (hereinafter referred to as "Ratnaraj"). Applicants responded to this rejection of claims 11-15 and 21-25 by argument and without amendment. Nevertheless, the Examiner has withdrawn the rejection based upon anticipation by Ratnaraj and has finally rejected claims 11-15 and 21-25 on entirely new grounds through application of newly cited prior art. As a result, Applicants are prematurely forced to submit this appeal.

Claims 1-25 have been finally rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,708,173, issued to Behr et al

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(hereinafter referred to as "Behr"). This ground of rejection is inappropriate for the reasons discussed in detail below. For the convenience of the reviewers, only independent claims 1, 6, 11, 16, and 21 are discussed notwithstanding the independent patentability of pending claims 2-5, 7-10, 12-15, 17-20, and 22-25.

Quite apart from the many issues associated with whether or not Behr meets the environmental limitations of the claims, the prior art of record certainly does not meet the key limitations associated with the apparatus and method of storing intermediate computational data produced during the honoring of a service request. This feature is summarized in Applicants' specification at page 12, line 12, through page 13, line 2. Details of the preferred mode of practicing this feature is highlighted in Figs. 31-32, with corresponding description at page 51 of Applicants' specification.

The Examiner confuses the storage of a "service" or portions of a "service" as taught by Behr with the claimed storage of intermediate computational data associated with the running of a "service". Page 22, lines 7-16, of Applicants' specification provides the Examiner with a working definition of "service". It states:

> The basic request/response format of the Cool ICE system involves a "service" (defined in greater detail below) which is an object of the Cool ICE system. **The service is a predefined operation or related sequence of operations which provide the client with a desired static or dynamic result.** The services are categorized by the language in which they were developed. Whereas all services are developed with client-side scripting which is compatible with Internet terminal 54 (e.g., XML), the server-side scripting defines the service category. Native services utilize Cool ICE script for all server-side scripting. On the other hand, open services may have server-side scripting in a variety of common commercial languages including Jscript, VBScript, ActiveX controls, and HTML. Because native services are developed in the Cool ICE script (run) language, greater development flexibility and variety are available with this technique. (Emphasis added)

Though Behr and Applicants' system both teach storing of a "service" and/or portions of a "service", only Applicants teach storing of intermediate computational data produced by a "service"[1].

Specifically, with regard to the rejection of claim 1, the Examiner confusingly states, "Behr teaches....a user terminal.....which generates a service request for access to a database management system consisting of a plurality of variety (sic) data formats ....", citing Fig. 1, along with column 4, lines 64-67, column 5, lines 1-12, and column 8, lines 10-48. This statement is confusing because it does not relate to Applicants' claimed invention. Therefore, the statement is at least legally irrelevant. Furthermore, the statement is clearly erroneous, because the citations of Behr do not support the Examiner's conclusion.

Applicants actually claim a "service request" limited by "honoring through execution of said command language by said legacy data base management system thereby **producing temporary computational data**". In making the pending rejection, the Examiner states:

> (transferring request or service request from terminal user over Internet in HTML into a format from which legacy RDBMS commands and inputs may be generated and HTML table or document storing computational data for later user: fig. 2, col, 4, lines 64-67 and col. 5, lines 1-12, lines 28-58; also col. 14, lines 4-12; also MAPPER command language; col. 3, lines 8-32)

Quite apart from the lack of support for the Examiner's conclusions within the extensive citations, the statement is legally irrelevant, because it does not address Applicants' claimed invention.

The final element of claim 1 is the "facility" which stores the intermediate "temporary computational data" for later use. As explained

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[1]The Examiner's confusion in this regard is highlighted in his Advisory Action mailed April 4, 2006, stating in part, "In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. "the storage of a service or portions of a service") are not recited in the rejection claims(s).

above, Behr has no such "temporary computational data". Nevertheless, in finally rejecting claim 1, the Examiner cites portions of Behr which discuss Fig. 7. Column 13, lines 26-27, is instructive in pointing out the Examiner's confusion stating:

> FIG. 7 is a pictographic drawing 178 of the development
> process for creating a Cool ICE service.

The Examiner has confused the "development process for creating" the claimed "service request" of Behr with the claimed honoring of the "service request" by the claimed "data base management system"[2].

The rejection of claim 1, and all claims depending therefrom, is inappropriate in view of the Examiner's failure to meet the requirements of MPEP 2131 to establish anticipation.

In the rejection of claim 6, the Examiner repeats the above clearly erroneous findings of fact and adds some additional ones. As with the rejection of claim 1, the Examiner again clearly erroneously finds the claimed "facility" to be associated with Behr's Fig. 7 process for developing a service request rather than the claimed process of honoring a service request.

In his rejection of claim 11, the Examiner repeats many of the errors of his rejections of claims 1-10, and adds additional errors.

With regard to the "commencing" and "storing" steps, the Examiner again refers to Behr's process for developing a service request (see Fig. 7 and associated discussion), rather than the claimed "honoring" of a service request.

In addition, the Examiner confusingly states:

> implementing any of the functional systems more efficient
> (Walsh's col. 2, lines 60-65).

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[2]The Examiner also appears to confuse the functions of Repository 106 of Behr which are limited to storage of script and input variables with the claimed storage of user accessible tables for "temporary computational data" as claimed.

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It is not known how this relates to the rejection of claim 11. The rejection of claim 11, and all claims depending therefrom, is respectfully deemed inappropriate.

The rejection of claim 16 repeats many of the clearly erroneous findings of fact and incorrect applications of controlling law utilized in rejecting claim 6. As explained above Behr does not have this structure, which is certainly not disclosed, as alleged by the Examiner. In particular, Behr does not have the "providing means" and "storing means" for the reasons discussed in detail above. Again, the Examiner confuses the service development process of Behr (see Fig. 7) with the claimed service honoring process. The rejection of claim 16, and all claims depending therefrom, is inappropriate.

Claim 21 is an independent apparatus claim having five key elements. In rejecting claim 21 the Examiner makes numerous clearly erroneous findings of fact discussed above. In addition, the Examiner continues to confuse the service development process of Behr with the claimed service honoring process in clearly erroneously finding that Behr has the claimed "facility". The rejection of claim 21, and all claims depending therefrom is inappropriate.

Respectfully submitted,

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By their attorney,

Date April 12 , 2006

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